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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,352	02/28/2000	Gunji Tsukuda	NIT-84-02	8320
24956	7590	06/15/2004	EXAMINER	
MATTINGLY, STANGER & MALUR, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314			PATEL, JAGDISH	
		ART UNIT	PAPER NUMBER	
		3624		

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	09/514,352	Applicant(s)	TSUKUDA, GUNJI
Examiner	JAGDISH PATEL	Art Unit	3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 05 April 2004.  
2a) This action is FINAL.                                   2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 2,4,22-47 and 52-54 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 2,4,22-47, 52-54 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. This communication is in response to amendment filed 4/5/04.

### *Response to Amendment*

2. Claims 2, 4, 22-23, 31 and 41 have been amended and new claim 54 has been added.
3. Claims 2, 4, 22-47 and 52-54 are currently pending and have been examined.

### *Response to Arguments/Remarks*

4. Rejection of claim 2 under prior art of Nicholls patent is withdrawn because the applicant's amendment that incorporates new limitation "means for .. storing the delivery goods information in a storage medium accompanied with the delivery goods". However, the applicant's argument are not persuasive because they concern information of the delivery of goods "outputted in the form of a bar code on a slip attached to the delivery goods" , which is distinct from the limitation "storage medium accompanied with the delivery goods" as recited in claim 2. Similarly, the applicant's remarks regarding "means for reading out the information described on the slip from an input apparatus provided at the agent" does not relate to the claimed invention.
5. The applicant's remarks that Nicholls et al. or Martin et al. do not describe 'an input/output apparatus ..using such a bar code printed on a slip" are not relevant to the claims no such limitation is recited the rejected claims 2, 4, 52 and 53.

6. Rejection of claims 2 has been withdrawn in light of the amendment.

However, the applicant has failed to provide any persuasive remarks and/or arguments concerning rejection of 4 and 53 over the prior art (see previous paragraph) accordingly rejection of claims 4 and 53 has been maintained and presented below. Similarly, certain rejections under 35 USC 112(second) have been maintained because the applicant has not addressed all deficiencies identified in the previous office action as explained in the following paragraphs. Alternatively, the newly added limitations also render the claim(s) indefinite as explained in the following paragraphs.

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Rejections 112*

8. Claims 2, 4, 22-47 and 52-54 are rejected under 35 U.S.C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2: The claim is rendered indefinite due to the following deficiencies:

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are:

The claim omits structural relationship of the limitation "means in the distribution center, for storing the delivery goods information in a storage medium accompanied with the delivery goods" to the agent server and the distribution server.

The claim recites limitation "an agent server for managing commission on the delivery goods by the agent..", however, no elements are recited in the claim which

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relate to the function of managing commission which function is performed by the agent server. This defect renders the claim indefinite as no other element of the delivery managing system supports or refers to the commission (interpreted as fees charged by the agent for delivery of the goods by the delivery managing system). For example, the claim does not specify any means to communicate information regarding commission to the distribution center or the receiver of the goods.

Claim 2 is also rendered indefinite by recitation of the conditional functionality "if the delivery goods information is inputted" in limitation "means in the agent server, for determining the arrival of the delivery goods to the agent". The usage of phrase "if the delivery goods information is inputted" in the aforementioned limitation renders the claim indefinite because the scope of the claimed invention thus recited cannot be ascertained definitively due "conditional" nature of the functionality recited.

Dependent claims 52 and 54 also inherit same deficiencies as parent claim 2.

Claim 4: The claim is rendered indefinite due to the following deficiencies:

Claim 4 recites limitation:

an agent server for managing commission on the delivery goods by the agent.., however, no elements are recited in the claim which relate to the function of managing commission which function is performed by the agent server. This defect renders the claim indefinite as no other element of the delivery managing system supports or refers to the commission (interpreted as fees charged by the agent for delivery of the goods by the delivery managing system). For example, the claim does not specify any means to communicate information regarding commission to the distribution center or the receiver of the goods.

Dependent claim 53 inherits same deficiencies as parent claim 4.

Claim 22: The claim is rendered indefinite due to the following deficiencies:

The claim recites limitation:

said agent server comprises:

means for determining whether or not to send the goods to the client .. said inputted information..". There is no antecedent basis for the limitation (see underlined) in the claim. Note that the claim fails to recite any communication between the client apparatus and the agent server.

Dependent claims 23-30 inherit same deficiencies as parent claim 22.

The claim(s) while recites steps of providing a client apparatus, a distribution server and an agent server which are interconnected with an information transmission network, (the claim) fails to recite any functional relationship or linkage of the client

apparatus to the steps performed by the distribution sever directly or indirectly via the agent server. For example, distribution server receives a distribution condition from a distribution center, generates delivery information and transmits the information to the agent server, however no interaction with the client apparatus is recited. The claim therefore, is rendered indefinite as to the functionality of the client apparatus.

Furthermore, the claim recites amended limitation "distribution condition that is transferred from a distribution center". However, there is no linkage of the distribution center to the distribution server recited. It is unclear how a server can receive information without a communication link from an external entity?

Dependent claims 32-40 inherit same deficiencies as parent claim 22.

Claim 31 recites limitation "said distribution center" (p. 8 L 8-11, referring to "receiving" step). There is no antecedent basis for this limitation. The claim is void of any recitation of the relationship of the distribution sever to the distribution center.

Claims 32-40 inherit deficiency of parent claim 31.

Claim 41 is rendered indefinite due to same deficiencies outlined in claim 31 analyses.

Additionally, claim 41 also contains the following "conditional" functionality, which renders it indefinite. The usage of phrase "to be used when" in the aforementioned limitation renders the claim indefinite because the scope of the claimed invention thus recited cannot be ascertained definitively due "conditional" nature of the functionality recited.

Dependent claims 42-47 inherit deficiency of parent claim 41.

*Claim Rejections - 35 USC § 103*

10. Claims 4 and 53 as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls et al (US Pat. 5,631,827) (Nicholls) and further in view of Martin et al. (US Pat.5,960,408) (Martin).

Per claim 4 and 53: Nicholls discloses a delivery managing system from a distribution center (Supervisory Manager 104 of Figure 3A) through an agent (carrier represented by one of the Rate servers, see col. 4 L 50-54) to a receiver, comprising:

A distribution sever for managing delivery of the delivery goods ((Supervisory Manager 104 of Figure 3A, also refer to Fig. 6 and pertinent details col. 11 L 60- col. 12 L 10);

An agent server for managing commission on the delivery goods... ((carrier represented by one of the Rate servers, see col. 4 L 50-54);

data transmission network for connecting said distribution server and said agent server (refer to communication lines in Fig. 5 represented by letters "C" and letter "s", also refer to col. 11 L 60- col. 12 L 10);

Means in a distribution server for receiving a request..from a receiver (refer to col. 7 L 48-57, Shipment client);

Means in the distribution sever for sending delivery goods information to an agent designated in request (col. 10 L 42-64, "carrier-oriented information,..shipping rates, time in transit information and the like in one or more rate servers", inherently the

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shipping rates etc. depend on the delivery goods information and therefore the limitation is met by the reference);

Nicholls fails to explicitly suggest that the agent server (rate servers of individual carriers) have means for notifying of arrival and departure of the delivery goods to and from an agent (carrier such as UPS) to a receiver. Martin teaches a delivery managing system which includes means for notifying of arrival and departure of the delivery goods to and from and agent to the receiver (Martin, "customer preferred ship date", "targeted ship date" and "date the customer order have to leave the supplier site to arrive at the customer's site" col. 3 L 33- col. 4 L 10). It would have been obvious to one skilled in the art at the time the invention was made to have the means for notifying of arrival and departure of the delivery goods to and from an agent (carrier such as UPS) to a receiver incorporated in the rate servers in order that the receiver is notified of the expected delivery of the goods which would enable the receiver to plan receipt of the delivery goods.

### ***Conclusion***

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

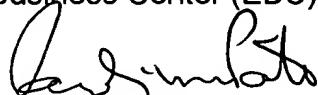
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (703)308-7837. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703)308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3624)

6/11/04